

## **July 20 Presentation Questions**

The following questions were asked during the presentation or written out at the front desk and were answered after the presentation:

### **Montgomery Circuit**

Q: The C/A sent back transcripts requiring redaction of AR information – it was admitted in open court; must they submit separate volume of green paper documents? If it's admitted in open court and no request is made for it to stay confidential, why did the C/A return?

A: After I sent an e-mail to the Court of Appeals about this question, I got a call from Montgomery Circuit Court about it. I answered the question over the phone and was able to resolve the issue in that way. A separate volume of green paper documents is required under Trial Rule 5(G). If confidential information is admitted into evidence under AR 9(G) (1.2) and no affirmative request is made to keep it confidential, it becomes open to the public and is not placed on green paper. This provision of AR 9(G) became effective on January 1, 2010. Before that date, the confidential information admitted into evidence should have been placed on green paper.

### **Clark Superior**

Q: In the new system (Odyssey), she has to issue a JM case number in all detention cases and create two files.

A: Lilly thought the instructions had changed and they have not been changed yet. JTAC still uses the instructions of the JM first then the other filing – JC or JD. Instructions have been drafted but not finalized but should state: File the JC or JD case type instead of filing the JM first.

### **Marshall Circuit**

Q: Juvenile pleads guilty in St. Joseph County because he committed delinquent act there; Judge Nemeth “venues” the case to Marshall County (the boy’s home county) “for disposition”. How should this case be counted and can the receiving clerk charge change of venue fees?

A: How is this case counted? IC 31-32-7-3(a)(1) allows the judge to change venue to the county of child’s residence at any time prior to disposition. Since the case is venued to another county prior to disposition, the case should be counted on Line R. If it’s called “venued”, the clerk wants to charge all the venue fees provided for by statute. Is this allowed? I could find nothing that would prevent change of venue fees being charged. I asked for specific examples but she said no fees had ever been charged, she was just anticipating them.

Q: In a divorce decree, the judge has ordered one spouse to pay money to the other. Should this order be included in the judgment book? Is it enforceable by pro sup?

A: The answer to both questions is Yes.

### **Steuben Circuit**

Q: If you receive a certified mail that does not have a post mark on envelope and has an e-stamp on it, what date do you file it with (date on letter or date actually received)?

A: This is a problem that I do not see a solution for. Evidently, the postal service does not postmark everything. We cannot rely on the date on the letter. We may need to change Trial Rule 5(F).

Q: Should a separate case number be used for each child in a guardianship proceeding?

A: IC 29-3-5-6 "When a petition is filed for the appointment of a guardian for two (2) or more minors or incapacitated persons who are children of a common parent, parent and child, or husband and wife, a separate petition need not be filed for each minor or incapacitated person, and appointment of a guardian for all may be considered in one (1) proceeding. A separate accounting is required for each minor or incapacitated person, but an actual segregation of assets is not required except as required by the court."

### **LaPorte County**

Q: (Marilyn said they have only been charging 5 cents per page.) Is the cost of making copies set by trial rule? Can it be changed by local rule (i.e. copies made on public request)?

A: The cost of making copies by the judicial branch is set by IC 33-37-5-1. The fee for a copy is \$1 per page. A county may promulgate a local ordinance regarding copy fees provided the local fee does not exceed \$1 per page.

### **Lawrence County Court Reporter**

Q: At what point are Protective Orders considered closed? As soon as the Judge grants or denies?

A: You are correct that as soon as the Judge decides on the PO - grant or deny- you can dispose of this case on your QCSR. If the respondent requests a hearing, it is considered post judgment and not counted on your QCSR again. Even if the Judge dismisses the PO during the requested hearing, it is still already disposed of on your QCSR when the PO was decided upon initially so no other reporting on the QCSR is necessary.

## Newton Superior

Q: Are default judgment cases considered Pro Se or not? The case is closed by default.

A: If a case is defaulted, it should not be counted as *Pro Se* since no information about representation was obtained.

I am including the instructions we have in the application guide on *Pro Se*. You can find this manual at <http://www.in.gov/judiciary/admin/courtmgmt/forms/current.html>

### Line W – CASES WITH *PRO SE* LITIGANTS

A case should be counted in this category if any party has proceeded without attorney representation at any point in the case while the case remains open. A case should only be counted **once**, however, even if many parties proceed *pro se*, or if the status of the litigants changes one or more times during the course of the case. For statistical purposes, once the case is disposed, do not include the case in this category if a party begins to represent himself or herself *pro se* after the disposition is reported on the QCSR. Count a criminal or juvenile case as *pro se*, if after the hearing in which the defendant is offered an attorney, the defendant refuses one and acts on his/her own behalf thereafter. For a civil case, determine *pro se* status starting from the moment the complaint or petition is filed. If a plaintiff files a civil case without the assistance of an attorney, count that case as *pro se*. If a defendant files a document or attends a hearing without an attorney, count the case as *pro se*, unless the plaintiff's *pro se* status was already included. Frequently, those courts that exercise small claims jurisdiction will have multiple cases falling into this category.

Litigants who are defaulted should not be counted as *pro se*, since no information about representation was obtained. A case may be counted *pro se* at any time the court believes at least one party is acting on his or her behalf without the assistance of counsel. **Each case may be counted a maximum of one time as *pro se* in the life of the case and that should be counted in the quarter that the Court first determines a litigant's *pro se* status.** Courts may look to appearance forms, filings, (if a person files something or appears without an attorney), attendance at hearings *pro se*, or any other factor for this determination.